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EXPERIAN INFORMATION SOLUTIONS, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ROANE HOLMAN,
and all others similarly situated,

Plaintiffs,

v.

EXPERIAN INFORMATION SOLUTIONS,
INC.; FINEX GROUP LLC,

Defendants.

Case No. CV-11-00180-CW

**EXPERIAN INFORMATION
SOLUTIONS, INC.'S
SUPPLEMENTAL RESPONSE TO
PLAINTIFF'S [THIRD] REQUEST
FOR DOCUMENTS NOS. 12-17**

PROPOUNDING PARTY: ROANE HOLMAN
RESPONDING PARTY: EXPERIAN INFORMATION SOLUTIONS, INC.
SET NUMBER: THREE¹

Exhibit 1

¹ The request for production was titled "Plaintiff's Second Request for Documents Directed to Experian," but this is actually the third request for documents propounded by plaintiff.

1 Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Defendant Experian
2 Information Solutions, Inc. ("Experian"), hereby supplements its response to Plaintiff's [Third]
3 Set of Requests for Production of Documents ("Requests") as follows:

4 **I. PRELIMINARY STATEMENT**

5 1. Experian has not yet completed its discovery relating to this case, and its
6 investigation of the facts is continuing. Experian will continue to investigate the facts relating to
7 this case up to and throughout the trial of this action. These responses, while based on a
8 reasonable investigation by Experian, reflect only Experian's current state of knowledge
9 regarding the subject matter of the Requests. Discovery is ongoing and will continue as long as
10 permitted by statute and/or stipulation. Experian expressly reserves the right to amend these
11 responses.

12 2. Experian responds to Plaintiff's Requests as it interprets and understands each of
13 them. If Plaintiff subsequently asserts an interpretation of any Request that differs from
14 Experian's understanding, Experian reserves the right to supplement its objections and/or
15 responses.

16 3. The fact that Experian has responded or objected to any Request or part thereof
17 may not be taken as an admission that Experian admits the existence of any fact set forth in or
18 assumed by such Request or that such a response constitutes relevant or material evidence. The
19 fact that Experian has responded to part or all of any Request shall not be construed to be a
20 waiver by Experian of any objections to part or all of any Request. Nothing contained herein
21 shall be construed as an admission of the existence or nonexistence of any fact. No implied
22 admissions whatsoever are intended by these responses.

23 4. Experian has included the objections herein because the Requests, as phrased, are
24 subject to those objections. Plaintiff should not assume that any documents exist that would have
25 been produced absent any particular objection or that any agreement to produce documents means
26 that in fact any such documents exist.

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II. GENERAL OBJECTIONS

1. Experian objects to Plaintiff's Requests to the extent that they seek documents, information, or things subject to the attorney-client privilege, the attorney work product doctrine, the self-investigative privilege, Rule 26(b)(3) and the joint defense/common interest privileges, or any other applicable law, rule, privilege, or immunity. Experian claims and invokes all such privileges and protections. Experian deems the scope of these Requests to exclude such privileged communications, and does not intend these responses to waive any privilege afforded such information or communication. Experian further objects to the Requests to the extent that they require Experian to prepare a privilege log beyond what is required by the Federal Rules of Civil Procedure.

2. Experian objects to all Definitions and Requests insofar as they seek to require Experian to prepare a log of documents created subsequent to any threatened litigation that have been withheld as a result of any applicable privilege, doctrine or immunity. Experian does not deem the Requests to seek the production of such a log, which would, in any event, be unreasonable, unduly burdensome, and harassing.

3. Experian objects generally to the Requests to the extent they seek information that is equally available to Plaintiff or is in the public record on the grounds that such Requests are unduly burdensome and oppressive and cause Experian unnecessary burden and expense.

4. Experian objects generally to the Requests to the extent they seek information not available from sources within Experian's possession, custody, or control. Requests seeking such information impose an obligation on Experian that is not authorized by the Federal Rules of Civil Procedure and are objectionable on that ground. Accordingly, Experian will respond to the Requests by providing only such information as is currently available based upon a reasonable investigation from sources within its possession, custody, or control.

5. Each response to an individual Request herein is subject to all appropriate objections (including, but not limited to, objections concerning competency, relevancy, materiality, propriety, and admissibility) that would require the exclusion of any statement contained therein if the Request were asked of a witness present and testifying in court, or of any

1 statement contained therein if the answer were given by said witness. All such objections are
2 reserved.

3 6. Experian objects to these Requests to the extent they seek proprietary or
4 confidential trade secret information or information protected by the privacy rights of third
5 parties. All documents produced by Experian in this litigation will be produced subject to the
6 terms of the Protective Order entered in this action.

7 7. Experian objects to the definition of “you,” “your,” and “yours” on the grounds
8 that they are overbroad and unduly burdensome by seeking to impose obligations on Experian
9 beyond those permitted in the Federal Rules of Civil Procedure.

10 8. Experian objects to the Definitions, Instructions, and Requests to the extent they
11 are inconsistent with, or enlarge upon, Experian’s obligations to respond as imposed by law, and
12 to the extent the Requests and Definitions exceed the permissible scope of discovery as set forth
13 in the Federal Rules of Civil Procedure, the Local Rules, and the Orders entered by this Court. In
14 responding to these requests, Experian will comply with the requirements set forth in those Rules,
15 not with any Definitions or Requests that exceed or alter the requirements of those Rules.

16 9. Experian incorporates the foregoing General Objections and limitations into each
17 of the following responses, which responses are made subject to and without waiver of those
18 General Objections and limitations.

19 III. RESPONSES AND OBJECTIONS

20 **DOCUMENT REQUEST NO. [12]:**

21 All documents in the files and records of Experian's Compliance Department that refer or
22 relate to the decision in *Pintos v. Pacific Creditors Association (Pintos)*, including but not limited
23 to all emails, letters, reports, analyses and other documents that mention *Pintos*.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

25 In addition to its General Objections, Experian objects that this Request seeks documents
26 protected by the attorney-client privilege and the attorney work product doctrine. Experian also
27 objects that this Request is vague and overbroad and seeks to impose an undue burden on
28 Experian by requiring production of electronically stored information that is not reasonably

1 accessible because of undue burden or cost. Experian also objects that the Request requires a
 2 legal conclusion and fails to describe documents with the reasonable particularity required under
 3 Rule 34. Experian also objects that the Request seeks documents that are neither relevant to this
 4 lawsuit nor reasonably calculated to lead to the discovery of admissible evidence. Experian
 5 objects that this Request is not limited to a relevant category of user, a relevant time frame or a
 6 relevant subject matter. Experian also objects to the extent the Request seeks documents that
 7 already have been produced, including EIS000001-EIS000003; EIS000004- EIS000013;
 8 EIS000018-EIS000020; EIS0000130-EIS0000131; EIS0000153-EIS0000221; EIS000228.

9 **SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

10 Subject to and without waiving its objections, Experian responds as follows: As written,
 11 this request is incredibly overbroad and vague. It purports to seek “[a]ll documents in the files
 12 and records of Experian’s Compliance Department that refer or relate to the decision in” *Pintos*.
 13 This request covers an astonishingly large amount of ground. All files and records that somehow
 14 “relate to” any of the FCRA’s permissible purpose requirements also “relate to the decision in”
 15 *Pintos*, for example, as do all documents that “relate to” 15 U.S.C. §§ 1681a(m) and 1681b(c), or
 16 to anything else discussed in *Pintos*. Yet only a small slice (if that) of all this material is even
 17 potentially relevant to this case.

18 Accordingly, in a good faith attempt to respond to this overbroad request, Experian
 19 construes this request narrowly to seek only those documents that evidence Experian’s response
 20 to the various holdings by the Ninth Circuit Court of Appeals in *Pintos v. Pacific Creditors*
 21 *Association* relating to the circumstances under which a consumer credit report may be used to
 22 collect on a towing debt, including where the consumer initiates the towing of his vehicle or
 23 where the towing debt has been judicially established.

24 Pursuant to this limitation, Experian already has produced documents detailing Experian’s
 25 response to the particular holdings described above. See EIS000001-EIS000003; EIS000004-
 26 EIS000013; EIS000018-EIS000020; EIS0000130-EIS0000131; EIS0000153-EIS0000221;
 27 EIS000228. Additionally, Experian has conducted searches of the files of the following
 28 individuals who were most involved in Experian’s response to those holdings: Ms. Pat Finneran;

Mr. Dan Buell; Ms. Laura Mundy; Ms. Cathy Jones; Ms. Kathy Centanni; Ms. Ann Sterling; and Mr. Jason Engel. The searches used the search term “Pintos” and the stemmed search term “towing” and then excluded from those results any of the following: (i) materials that are subject to any privilege/work product objection; (ii) materials pertaining to resellers; (iii) materials pertaining to particular consumer(s); or (iv) materials relating to subscribers that do not engage in towing-related collections work. The searches also excluded post-litigation documents as well as documents created after January 6, 2011, which is the date on which Experian cut off Finex's access to Experian consumer credit information. Experian will produce documents satisfying the search criteria. In this regard, Experian already has produced certain documents and provided a privilege log with respect to certain documents identified in these searches and will continue to supplement both its production and its privilege log on a rolling basis.

DOCUMENT REQUEST NO. [13]:

For every other department of Experian that had any responsibility for complying with the permissible purpose limitations of the Fair Credit Reporting Act, all documents in the files and records of those departments that refer or relate to the decision in *Pintos v. Pacific Creditors Association (Pintos)*, including but not limited to all emails, letters, reports, analyses and other documents that mention *Pintos*.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

In addition to its General Objections, Experian objects that this Request seeks documents protected by the attorney-client privilege and the attorney work product doctrine. Experian also objects that this Request is vague and overbroad and seeks to impose an undue burden on Experian by requiring production of electronically stored information that is not reasonably accessible because of undue burden or cost. Virtually every department at Experian bears some responsibility for preventing the dissemination of Experian consumer credit information for purposes not permitted under the FCRA, and thus this Request purports to require Experian to search nearly all of its files. Experian also objects that the Request requires a legal conclusion and fails to describe documents with the reasonable particularity required under Rule 34.

Experian also objects that the Request seeks documents that are neither relevant to this lawsuit

nor reasonably calculated to lead to the discovery of admissible evidence. Experian objects that this Request is not limited to a relevant category of user, a relevant time frame or a relevant subject matter.

SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

Subject to and without waiving its objections, Experian responds as follows: *See* Supplemental Response to Request for Production No. 12.

DOCUMENT REQUEST NO. [14]:

All documents in the files and records of Experian's department that is responsible for its Collection Advantage products that refer or relate to *Pintos*, including but not limited to all emails, letters, reports, analyses and other documents that mention *Pintos*.

RESPONSE TO REQUEST FOR PRODUCTION NO. 14:

In addition to its General Objections, Experian objects that this Request is vague and ambiguous as to the phrase "Experian's department that is responsible for its Collection Advantage product." This Request erroneously assumes that there is a single department at Experian that oversees all aspects of Collection Advantage. Experian also objects that this Request seeks documents protected by the attorney-client privilege and the attorney work product doctrine. Experian also objects that this Request is vague and overbroad and seeks to impose an undue burden on Experian by requiring production of electronically stored information that is not reasonably accessible because of undue burden or cost. Experian also objects that the Request requires a legal conclusion and fails to describe documents with the reasonable particularity required under Rule 34. Experian also objects that the Request seeks documents that are neither relevant to this lawsuit nor reasonably calculated to lead to the discovery of admissible evidence. Experian objects that this Request is not limited to a relevant category of user, a relevant time frame or a relevant subject matter

SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 14:

Subject to and without waiving its objections, Experian responds as follows: *See* Supplemental Response to Request for Production No. 12.

DOCUMENT REQUEST NO. [15]:

All documents that constitute or refer to any changes to Experian's procedures that Experian *made* as a result of *Pintos*.

RESPONSE TO REQUEST FOR PRODUCTION NO. 15:

Experian objects that the words "changes" and "procedures" and the phrase "as a result of" are vague and ambiguous. Experian objects to the extent that the Request seeks documents protected by the attorney-client privilege and the attorney work-product doctrine. Experian objects that this Request seeks proprietary or confidential trade secret information concerning Experian's unique and highly sophisticated computer system. This system was developed at substantial expense, is extremely valuable, and is maintained with the utmost secrecy to protect Experian's competitive edge in the credit reporting industry. Disclosure of information concerning this system could create a serious risk that current or potential competitors of Experian might misuse the information to reverse engineer Experian's computer system and that credit clinics or identity thieves might misuse the information for fraudulent or criminal purposes. Experian also objects that this Request is vague and overbroad and seeks to impose an undue burden on Experian by requiring production of electronically stored information that is not reasonably accessible because of undue burden or cost. Experian also objects that this Request is not limited to a relevant category of user, a relevant time frame or a relevant subject matter. Experian also objects that the Request fails to describe documents with the reasonable particularity required under Rule 34.

Subject to and without waiving these objections and the General Objections, Experian responds as follows: *See* Experian's Response to Interrogatory No. 8 contained in Plaintiff's First Set of Interrogatories; Experian's Response to Document Request No. 5; EIS000001-EIS000003; EIS000008-EIS000013; EIS000228.

SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 15:

Subject to and without waiving its objections, Experian responds as follows: *See* Supplemental Response to Request for Production No. 12.

DOCUMENT REQUEST NO. [16]:

All documents that constitute or refer to any changes to Experian's procedures that Experian *considered making* in light of *Pintos*, but which proposed changes were never implemented.

RESPONSE TO REQUEST FOR PRODUCTION NO. 16:

Experian objects that the words "changes" and "procedures" and the phrase "in light of" are vague and ambiguous. Experian also objects that the Request seeks documents protected by the attorney-client privilege and the attorney work-product doctrine. Experian objects that this Request seeks proprietary or confidential trade secret information concerning Experian's unique and highly sophisticated computer system. This system was developed at substantial expense, is extremely valuable, and is maintained with the utmost secrecy to protect Experian's competitive edge in the credit reporting industry. Disclosure of information concerning this system could create a serious risk that current or potential competitors of Experian might misuse the information to reverse engineer Experian's computer system and that credit clinics or identity thieves might misuse the information for fraudulent or criminal purposes. Experian also objects that this Request is vague and overbroad and seeks to impose an undue burden on Experian by requiring production of electronically stored information that is not reasonably accessible because of undue burden or cost. Experian also objects that this Request is not limited to a relevant category of user, a relevant time frame or a relevant subject matter. Experian also objects that the Request fails to describe documents with the reasonable particularity required under Rule 34.

SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 16:

Subject to and without waiving its objections, Experian responds as follows: *See* Supplemental Response to Request for Production No. 12.

DOCUMENT REQUEST NO. [17]:

All documents that were shown or provided to any Experian sales representatives that refer or relate to or mention *Pintos*.

RESPONSE TO REQUEST FOR PRODUCTION NO. 17:

In addition to its General Objections, Experian objects that this Request seeks documents

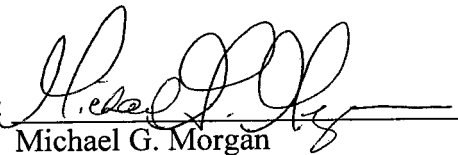
protected by the attorney-client privilege and the attorney work product doctrine. Experian also objects that the Request requires a legal conclusion and fails to describe documents with the reasonable particularity required under Rule 34. Experian also objects that the Request seeks documents that are neither relevant to this lawsuit nor reasonably calculated to lead to the discovery of admissible evidence. Experian also objects that this Request is vague and overbroad and seeks to impose an undue burden on Experian by requiring production of electronically stored information that is not reasonably accessible because of undue burden or cost. Experian objects that this Request is overbroad and unduly burdensome and seeks information that has no relevance whatsoever to this litigation, and is not limited to a relevant category of user, a relevant time frame or a relevant subject matter.

SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 17:

Subject to and without waiving its objections, Experian responds as follows: *See* Supplemental Response to Request for Production No. 12.

Dated: February 10, 2012

JONES DAY

By: 
Michael G. Morgan

Attorneys for Defendant
EXPERIAN INFORMATION SOLUTIONS,
INC.

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